THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.6665 OF 2005

DATED: 01-8-2007

Between:

J.C. Enterprises, a partnership firm running its business at 50-8-8, opp. to Gurudwara, Seethammadhara, Visakhapatnam, rep. by its partner Smt G. Salomi

.. Petitioner

and

Eastern Power Distribution Company of A.P. Limited, rep. by its Superintending Engineer (Operation), Visakhapatnam and another.

.. Respondents

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ORDER:

This writ petition is filed seeking a mandamus declaring the action of the respondents in disconnecting power supply to the petitioner's premises bearing Door No.50-8-8, opposite to Gurudwara, Seethammadhara, Visakhapatnam, under service connection No.73492 Cat-II, as arbitrary and illegal.

The petitioner is a partnership firm, running petrol bunk in the name and style of 'J.C. Enterprises', under the license issued by Bharat Petroleum Corporation Limited, and it has a service connection bearing No.73492 Cat-II, which was in the name of one Yellaiah, late husband of Smt G.Salomi, partner of the petitioner firm. According to the petitioner, there were no arrears of electricity consumption charges payable in respect of its service connection. While so, without issuing any notice, the 1st respondent disconnected the power supply to the petitioner's premises with effect from 28.02.2005. The enquiries made by the petitioner revealed that the disconnection of power supply was done at the instance of the 2nd respondent for the reason that a Private Limited Company, by name, Karunya Cold Storage Private Limited at Rajahmundry, which was having service connection bearing No.252/1123, has fallen in arrears of electricity consumption charges payable to the 2nd respondent and failed to pay the same and, since one of the Directors of said Karunya Cold Storage Private Limited was the husband of one Ambati Indira Devi, who is one of the partners of the petitioner firm, the 1st respondent was advised to disconnect the power supply to the petitioner's premises. The petitioner alleges that the respondents have no right whatsoever to disconnect power supply to its premises for non-payment of consumption charges due to them in respect of an altogether different service connection. Hence, the present writ petition.

No power available to the respondents is brought to the notice of this Court for disconnecting power supply to the premises of the petitioner firm, in the process of collecting arrears in respect of service connection of some other company, except stating that one of the directors of the company, which fell in arrears, was the husband of one of the partners of the petitioner firm.

Learned counsel for the respondents, however, relied on Condition 42.3 (d) of the Revised Terms and Conditions of Supply of Electricity, which reads as under:

> "Any other sums payable to the Board under the contract of supply or the tariff and terms and conditions of supply notified by the Board, under Section 49 of the Electricity Supply Act, the Board may, without prejudice to its other rights cause to be disconnected all or any of the other services of the consumer though such services be distinct and are governed by separate agreements and though no default occurred in respect thereof."

The learned counsel for the respondents states that in view of the above condition, the respondents are entitled to disconnect power supply to the petitioner's premises.

From a plain reading of the above condition, I am of the opinion that the same has no application to the facts of the instant case. Further, the act of the respondents appears to be atrocious. Power supply to the premises of the petitioner firm was sought to be disconnected in the guise of the dues recoverable against service connection bearing No.252/1123 belonging to Karunya Cold Storage Private Limited, Rajahmundry, in which the husband of one of the partners of the petitioner firm was one of the directors. The said action of the respondents is arbitrary and illegal and the writ petition is liable to be allowed.

Accordingly, the writ petition is allowed. However, this will not preclude the respondents from proceeding against Karunya Cold Storage Private Limited at Rajahmundry, for recovery of arrears, as per law.

C.V. RAMULU, J

1st August, 2007.
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